

#### **4-35-1. Short title.**

This chapter is known as the "Insect Infestation Emergency Control Act."

Enacted by Chapter 133, 1985 General Session

#### **4-35-2. Definitions.**

As used in this chapter:

- (1) "Committee" means the Decision and Action Committee created by and established under this chapter.
- (2) "Department" means the Department of Agriculture and Food.
- (3) "Insect" means, but is not limited to, grasshopper, range caterpillar, mormon cricket, apple maggot, cherry fruit fly, plum curculio, and cereal leaf beetle.

Amended by Chapter 82, 1997 General Session

#### **4-35-3. Decision and Action Committee created -- Members -- How appointed -- Duties of committee -- Per diem and expenses allowed.**

- (1) (a) There is created the Decision and Action Committee which consists of not fewer than six members.
- (b) One member is the commissioner and one member is appointed to represent the department.
- (c) The remaining members of the committee are appointed by the commissioner on an ad hoc basis as necessary from persons directly affected by and involved in the current insect infestation emergency.
- (d) The committee is dissolved when the commissioner declares that the insect infestation emergency is over.
- (2) The committee shall:
  - (a) establish a system of priorities for any insect infestation emergency; and
  - (b) certify to the commissioner any area which requires the establishment of an insect control district in areas of infestation and in which a simple majority of the landowners and lessees whose total production exceeds 50% of the production in that area has agreed to pay proportionate shares of the costs of controlling the insects infesting the area.
- (3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

#### **4-35-4. Commissioner to declare emergency -- Powers of commissioner in emergency.**

- (1) (a) The commissioner, with the consent of the governor, may declare that an insect infestation emergency situation exists which jeopardizes property and resources,

and designate the area or areas affected.

(b) The area referred to in Subsection (1)(a) may include federal lands, after notification of the appropriate federal land manager.

(2) The commissioner is authorized, subject to the requirements of Section 4-35-5, to direct all emergency measures the commission considers necessary to alleviate the emergency condition. The commissioner shall:

(a) utilize equipment, supplies, facilities, personnel, and other available resources;

(b) enter into contracts for the acquisition, rental, or hire of equipment, services, materials, and supplies;

(c) accept assistance, services, and facilities offered by federal and local governmental units or private agencies; and

(d) accept on behalf of the state the provisions and benefits of acts of Congress designated to provide assistance.

Amended by Chapter 132, 2002 General Session

**4-35-5. Commissioner to act upon certification by committee -- Deposit required.**

(1) The commissioner initiates operations to control the insect infestation in the designated area or areas:

(a) upon certification by the committee under Subsection 4-35-4(2); and

(b) upon deposit of the owner's and lessee's projected proportionate share of the costs.

(2) The commissioner and the members of the committee may suspend or terminate control operations upon a determination that the operations will not significantly reduce the insect population in the designated emergency area.

Enacted by Chapter 133, 1985 General Session

**4-35-6. Money deposited as dedicated credits -- Balance nonlapsing -- Matching funds allowed.**

(1) All money received by the state under this chapter is deposited by the Department of Agriculture and Food as dedicated credits for the purpose of insect control with the state.

(2) The dedicated credits may be used as matching funds for:

(a) participation in programs of the United States Department of Agriculture; and

(b) in contracts with private property owners who own croplands contiguous to infested public rangelands.

Amended by Chapter 391, 2010 General Session

**4-35-7. Notice to owner or occupant -- Corrective action required -- Directive issued by department -- Costs -- Owner or occupant may prohibit spraying.**

(1) The department or an authorized agent of the department shall notify the

owner or occupant of the problem and the available alternatives to remedy the problem. The owner or occupant shall take corrective action within 30 days.

(2) If the owner or occupant fails to take corrective action under Subsection (1), the department may issue a directive for corrective action which shall be taken within 15 days. If the owner or occupant fails to act within the required time, the department shall take the necessary action. The department may recover costs incurred for controlling an insect infestation emergency from the owner or occupant of the property on whose property corrective action was taken.

(3) Owners or occupants of property may prohibit spraying by presenting an affidavit from their attending physician to the department which states that the spraying as planned is a danger to their health. The department shall provide the owner or occupant with alternatives to spraying which will abate the infestation.

Amended by Chapter 378, 2010 General Session

**4-35-8. Persons and activities exempt from civil liability.**

No state agency or its officers and employees nor the officers, agents, employees, or representatives of any governmental or private entity acting under the authority granted by this chapter is liable for claims arising out of the reasonable exercise or performance of duties and responsibilities under this chapter.

Enacted by Chapter 133, 1985 General Session

**4-35-9. Department to adopt rules.**

The department is authorized to adopt and enforce rules to administer this chapter.

Enacted by Chapter 133, 1985 General Session